A. PROPOSED AMENDMENTS FOR THE RULES OF CRIMINAL PROCEDURE

I. RCr 4.06 Duties of pretrial service agency

The proposed amendments to RCr 4.06 are:

The duties of a pretrial services agency authorized by the Administrative Office of the Courts to serve the trial court shall include interviewing defendants eligible for pretrial release, verifying information obtained from defendants, making recommendations to the court as to whether defendants interviewed should be released on personal recognizance, identifying veterans, and any other duties ordered by the Supreme Court. When a defendant requests appointment of counsel, the Pretrial Release Officer shall, where practical, interview the defendant, assist in preparing the affidavit of indigency set out in KRS 31.120, and provide the affidavit to the court and the defendant.

II. RCr 4.08(b), (f), (g) and new section (h) Confidentiality of pre[-]trial services agency records

The proposed amendments to sections (b), (f), (g) and new section (h) to RCr 4.08 are:

Information supplied by a defendant to a representative of the pre**[-]**trial services agency during the defendant's initial interview or subsequent contacts, or information obtained by the pre**[-]**trial services agency as a result of the interview or subsequent contacts, shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the defendant except in the following circumstances:

(b) information furnished by the defendant to the pre**[-]**trial services agency and recorded on a completed interview form shall be furnished to law enforcement officials upon request if the defendant fails to appear in court when required;

(f) any person conducting an evaluation of the pre**[-]**trial release program may have access to all completed interview forms upon order of the Supreme Court.

(g) **[**A**]**a**l**l information obtained from the defendant and all information provided to the court shall be provided to the defendant's attorney.

(h) information relating to a defendant's status as a military veteran may be shared with the Department of Veterans Affairs in order to facilitate the provision of services available to the defendant.

At the beginning of the initial interview with a representative of the pre**[**-**]**trial services agency, the defendant shall be advised of the above uses of information supplied by the defendant or obtained as a result of information supplied by the defendant.

III. RCr 5.22(2) Procedure upon failure to indict

The proposed amendments to section (2) of RCr 5.22 are:

(2) Final adjournment of a grand jury without its having indicted a defendant who has been held to answer, pursuant to RCr 3.14(1), shall effect the defendant's discharge from custody or, if the defendant is free on bail that has not been forfeited, shall exonerate the bail and any conditions thereon unless the grand jury refers the matter to the next grand jury, which referral must be in writing to the circuit court. Money or bonds deposited in lieu of bail shall be refunded upon such discharge. In any event, a defendant who has been held to answer, pursuant to RCr 3.14(1), for longer than 60 days without having been indicted shall be entitled to a discharge from custody.

IV. RCr 6.52 Warrant or summons upon indictment or information; issuance

The proposed amendments to RCr 6.52 are:

[Upon the request of the attorney for the Commonwealth the court shall direct the clerk to issue a warrant for each defendant named in the indictment or information.**]** Upon the return of an indictment or the issuance of an information, **[**T**]**the clerk shall issue a summons for each defendant named instead of a warrant unless a warrant is requested by **[**upon the request of**]** the attorney for the Commonwealth or directed by **[**on direction of**]** the court. Upon request of the attorney for the Commonwealth, the clerk shall issue more than one warrant or summons for the same defendant. The clerk shall deliver the warrant or summons to a peace officer for execution or service. If a defendant fails to appear in response to the summons, a warrant shall issue.

V. RCr 7.24 (3)(A), (B), (C) and (D) Discovery and inspection

The proposed amendments to sub-sections (B), (C) and (D) of section (3) to RCr 7.24 are:

(3)(A)**[**(i)**]** If the defendant requests disclosure under RCr 7.24(1)(b), upon compliance to such request by the Commonwealth, and upon written request of the Commonwealth, the defendant, subject to objection for cause, shall permit the Commonwealth to inspect, copy, or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession,

custody, or control of the defendant, which the defendant intends to introduce as evidence or which were prepared by a witness whom the defendant intends to call at trial when the results or reports relate to the witness's testimony. If the defendant requests disclosure of the Commonwealth's experts under RCr 7.24(1)(c), then upon written request by the attorney for the Commonwealth, the defense shall furnish to the attorney for the Commonwealth a written summary of any expert testimony that the defense intends to introduce at trial. This summary must identify the witness and describe that witness's opinions, the bases and reasons for those opinions, and the witness's qualifications.

B**[**(ii.)**]** If the defendant requests disclosure under Rule 7.24(2), upon compliance with such request by the Commonwealth, and upon motion of the Commonwealth, the court may order that the defendant permit the Commonwealth to inspect, copy, or photograph books, papers, documents or tangible objects which the defendant intends to introduce into evidence and which are in the defendant's possession, custody, or control.

[(B)(i) If a defendant intends to introduce expert testimony relating to a mental disease or defect or any other mental condition of the defendant bearing upon the issue of his or her guilt or punishment, the defendant shall, at least 20 days prior to trial, or at such other time as the court may direct upon reasonable notice to the parties, notify the attorney for the Commonwealth in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(ii) When a defendant has filed the notice required by paragraph (B)(i) of this rule, the court may, upon motion of the attorney for the Commonwealth, order the defendant to submit to a mental examination. No statement made by the defendant in the course of any examination provided for by this rule, whether the examination be with or without the consent of the defendant, shall be admissible into evidence against the defendant in any criminal proceeding. No testimony by the expert based upon such statement, and no fruits of the statement shall be admissible into evidence against the defendant in any criminal proceeding except upon an issue regarding mental condition on which the defendant has introduced testimony. If the examination ordered under this rule pertains to the issue of punishment (excluding a pretrial hearing under KRS 532.135), the court shall enter an order prohibiting disclosure to the attorneys for either party of any self-incriminating information divulged by the defendant until the defendant is found guilty of a felony offense, unless the parties otherwise enter into an agreement regulating disclosure.

(C) If there is a failure to give notice when required by this rule or to submit to an examination ordered by the court under this rule, the court may exclude such evidence or the testimony of any expert witness offered by the defendant on the issue of his or her mental condition.

(D) Evidence of an intention as to which notice was given pursuant to this rule, but later withdrawn, shall not be admissible, in any civil or criminal proceeding, against the person who gave said notice.**]**

VI. RCr 8.07 Mental Issues

The proposed new rule RCr 8.07 shall read:

(1) Insanity Defense; Notice; Mental Examination.

(A) Notice by Defendant. A defendant who intends to assert a defense of insanity at the time of the alleged offense shall, not less than 90 days before the date set for commencement of trial of the alleged offense, file a notice in writing of this intention with the clerk and serve a copy of the notice upon the attorney for the Commonwealth and all other parties. The court shall, for good cause, allow the defendant to file the notice late, grant a continuance of the trial or of any other proceedings, modify scheduling orders, or make other appropriate orders.

(B) Motion by Commonwealth for Examination of Defendant. If the defendant files a notice under Rule 8.07(1)(A), the attorney for the Commonwealth may, within 10 days of the filing of that notice, file a motion with the clerk for the court to order the defendant to be examined under KRS 504.070 and serve a copy of the motion upon counsel for the defendant. The court shall, for good cause, allow the attorney for the Commonwealth to file the motion late, grant a continuance of the trial or of any other proceedings, modify scheduling orders, or make other appropriate orders.

(C) Mental Examination; Authority to Order Examination; Procedures. If the defendant files a notice under Rule 8.07(1)(A), the court shall, upon the Commonwealth's motion under Rule 8.07(1)(B), order the defendant to be examined under KRS 504.070(3).

(D) Reports of Psychiatric or Psychological Examination. A report of a psychiatric or psychological examination ordered pursuant to Rule 8.07(1)(c))shall be prepared by the examiner designated to conduct the psychiatric or psychological examination. The report shall include –

(i) the defendant's history;

(ii) a description of the psychiatric, psychological, and medical tests that were employed and their results; and

(iii) the examiner's findings opinions and diagnosis as to whether the defendant was insane at the time of the offense charged.

(E) Filing and Disclosing Results and Reports of Psychiatric or Psychological Examination. The examiner designated to conduct the psychiatric or psychological examination under Rule 8.07(1)© shall, immediately upon completion of the report, deliver it as directed in the referring order of the court. The court shall order the report to be filed under seal and notice of the filing be given to all parties.

(2) Mental Disease, Mental Defect or Other Mental Condition Bearing on Issue of Guilt or Issue of Punishment; Notice; Mental Examination.

(A) Notice by Defendant. A defendant who intends to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on –

(i) the issue of guilt;

(ii) the issue of punishment; or

(iii) the issue of guilt and the issue of punishment;

shall, not less than 90 days before the date set for commencement of trial of the alleged offense, file a notice in writing of this intention with the clerk and serve a copy of the notice upon the attorney for the Commonwealth and all other parties. The notice shall specify whether the defendant intends to introduce expert evidence bearing on the issue of guilt, the issue of punishment or both such issues. The court shall, for good cause, allow the defendant to file the notice late, grant a continuance of the trial or of any other proceedings, modify scheduling orders, or make other appropriate orders.

(B) Motion by Commonwealth for Examination of Defendant. If the defendant files a notice under Rule 8.07(2)(A), the attorney for the Commonwealth may, within 10 days of the filing of that notice, file a motion with the clerk for the court to order the defendant to be examined and serve a copy of the motion upon counsel for the defendant and all other parties. The court shall, for good cause, allow the attorney for the Commonwealth to file the motion late, grant a continuance of the trial or of any other proceedings, modify scheduling orders, or make other appropriate orders.

(C) Mental Examination; Authority to Order Examination; Procedures. If the defendant files a notice under Rule 8.07(2)(A), the court may, upon the Commonwealth's motion under Rule 8.07(2)(B), order the defendant to be examined under procedures ordered by the court. The order shall specify that the examination relates to a claim that defendant suffers, or has suffered, from a mental disease or defect or any other mental condition of the defendant that bears on –

(i) the issue of guilt;

(ii) the issue of punishment; or

(iii) the issue of guilt and the issue of punishment.

(D) Reports of Psychiatric or Psychological Examination. A report of a psychiatric or psychological examination ordered pursuant to Rule 8.07(2)© shall be prepared by the examiner designated to conduct the psychiatric or psychological examination. The report shall include –

(i) the defendant's history;

(ii) a description of the psychiatric, psychological, and medical tests that were employed and their results; and

(iii) the examiner's findings, opinions and diagnosis as to whether:

(a) if the examination is ordered under Rule 8.07(2)(C)(i), whether the defendant is, or was at the time of the offense charged, suffering from a mental disease, mental defect or other mental condition bearing on the issue of guilt;

(b) if the examination is ordered under Rule 8.07(2)(C)(ii), whether the defendant is, or was at the time of the offense charged, suffering from a mental disease, mental defect or other mental condition bearing on the issue of punishment; or

(c) if the examination is ordered under Rule 8.07(2)©(iii), whether the defendant is, or was at the time of the offense charged, suffering from a mental disease, mental defect or other mental condition bearing on the issue of guilt and the issue of punishment.

(E) Filing and Disclosing Results and Reports of Psychiatric or Psychological Examination. The examiner designated to conduct the psychiatric or psychological examination under Rule 8.07(2)©(i) shall, upon completion of the report, immediately deliver it as directed in the referring order of the court. The court shall order the report to be filed under seal and notice of the filing be given to all parties.

(3) Inadmissibility of a Defendant's Statements Made In Course of Examination Under Rules 8.06, 8.07(1) and 8.07(2).

No statement made by a defendant in the course of any examination conducted under Rules 8.06, 8.07(1) or 8.07(2) (whether conducted with or without the defendant's consent), no testimony by an expert based on any such statement, and no other fruits of any such statement may be admitted into

evidence against the defendant in any criminal proceeding except on an issue regarding mental condition on which the defendant:

(A) has introduced evidence of incompetency or incapacity to stand trial under Rule 8.06;

(B) has introduced evidence requiring notice under Rule 8.07(1)(A); or

(C) has introduced evidence requiring notice under Rule 8.07(2)(A).

(4) Failure to Comply with Rules 8.07(1) and 8.07(2).

(A) Defendant's Failure to Give Notice or to Submit to Examination. The court may exclude any expert evidence from the defendant on the issue of the defendant's –

(i) sanity or insanity, if the defendant fails to give notice under Rule 8.07(1)(A) or to submit to an examination when ordered under Rule 8.07(1)(C); or

(ii) mental disease, mental defect, or any other mental condition bearing on the defendant's guilt or the issue of punishment, if the defendant fails to give notice under 8.07(2)(A) or to submit to an examination when ordered under Rule 8.07(2)(C).

(B) Commonwealth's Failure to Move for Examination. The court may decline to order the defendant to be examined if the attorney for the Commonwealth fails to file a motion under Rule 8.07(1)(B) or Rule 8.07(2)(B) for the defendant to be examined.

(5) Inadmissibility of Withdrawn Intention As to Which Notice Was Given Under Rules 8.07(1)(A) and 8.07(2)(A).

Evidence of an intention as to which notice was given under Rule 8.07(1)(A) or 8.07(2)(A), later withdrawn, is not, in any civil, or criminal, administrative or other proceeding, admissible against the person who gave notice of the intention.

VII. RCr 8.16 [Defenses which may be raised by motion] Motions that may be made before trial

The proposed amendments to RCr 8.16 are:

A party may raise by pretrial motion **[**A**]**any defense, **[**or**]** objection, or request **[**which is capable of determination**]** that the court can determine without **[**the**]** a trial of the general issue **[**may be raised before trial by motion**]**.

VIII. RCr 8.20 [Time of making motion] Motion deadline; ruling on motion

The proposed amendments to RCr 8.20 are:

[The motion raising defenses or objections shall be made before the plea is entered, but the court may permit it to be made within a reasonable time thereafter without withdrawal of the plea.**]**

(1) Motion Deadline. The court may, at the arraignment or as soon afterward as practicable, set a deadline for the parties to make pretrial motions and may also schedule a motion hearing.

(2) Ruling on a Motion. The court shall decide every pretrial motion within a reasonable time before the date of trial unless it finds good cause to defer a ruling. When factual issues are involved in deciding a motion, the court shall state its essential findings on the record.

B. PROPOSED AMENDMENTS FOR THE RULES OF CIVIL PROCEDURE

I. CR 5.02 (1) and (2) Service; how made

The proposed amendments to sections (1) and (2) of CR 5.02 are:

(1) Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, which shall not include a warning order attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court. Except as provided in paragraph (2) of this rule, s**[**S**]**ervice upon the attorney or upon a party shall be made by delivering a copy to the attorney or party or by mailing it to the attorney or party at the last known address of such person; or, if no address is known, by leaving it with the clerk of the court. Service is complete upon mailing unless the serving party learns or has reason to know that it did not reach the person to be served. Delivery of a copy within this rule means handing it to the attorney or to a party; or leaving it at the office of the attorney or party with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein**.[**; or sending it by electronic means if the attorney or a party consents in writing. The attorney or a party consents to accept electronic service by filing and serving a notice that the attorney or party accepts electronic service**]**.

(2) An attorney or party may elect to effectuate and receive service via electronic means to and from all other attorneys or parties in the action by filing a notice of such election with the clerk and serving a copy of such election by personal delivery or by mail as provided for in paragraph 1 of this rule, except

that such notice may be sent electronically to any other party or attorney who has already filed and served a notice of election of electronic service hereunder. The notice must include the electronic notification address at which the attorney or party agrees to accept service. Methods of electronic service that may be elected under this rule include electronic mail or telecopier (facsimile). Once an attorney or party files a notice of election of electronic service and serves the notice on all other attorneys or parties in the case, all other attorneys or parties shall promptly provide the requesting party or attorney with an electronic notification address at which the other attorneys or parties may be served, and shall thereafter serve the requesting attorney or party through electronic means whenever service of a document is required by these rules. Upon motion of an attorney or party and for good cause shown, the court may relieve the attorney or party of the obligation to make or receive service by electronic means. Unrepresented parties who are unable to utilize electronic service methods may continue to serve all other attorneys or parties through any method permitted by these rules. Electronic service of documents that are filed with the clerk shall be made on the same day they are filed. Service is complete upon **[**mailing or**]** electronic transmission, but electronic transmission is not effective if the serving party learns or has reason to know that it did not reach the person to be served. When documents are too large or numerous to be processed electronically by the sender or recipient, the serving attorney or party may serve them by mail or personal delivery.

II. CR 6.05 Additional time after service by mail

The proposed amendments to CR 6.05 are:

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or electronic service, 3 days shall be added to the prescribed period. This provision shall not apply to the service of summons by mail under Rule 4.01(1)(a).

III. CR 45.01 (1) and (2) Form; issuance

The proposed amendments to sections (1) and (2) of CR 45.01 are:

(1) Every subpoena shall state the court from which it is issued, the title of the action, the court in which the action is pending, and its civil action number; and the name, address, telephone number and e-mail address of the attorney or pro-se party causing the subpoena to be issued. Every subpoena shall command each person to whom it is directed to attend and give testimony and/or to produce designated documents or tangible things in that person's possession, custody, or control, or to permit inspection of premises, at the time and place therein specified. **[**A copy of every subpoena served shall be certified to the opposing party and to any person whose information is being requested.**]**

(2) The clerk or other authorized deputy shall issue a subpoena signed but otherwise in blank, to a party requesting it, who shall fill it in before service. An attorney licensed to practice law in this state may also issue and sign a subpoena on behalf of the court. A command to produce documents or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. **[**Subpoenas shall not be used for any purpose except to command the attendance of the witness and/or production of documentary or other tangible evidence at a deposition, hearing or trial; unless the parties agree that production may be made without a deposition. Upon order of the Court, with the agreement of the parties, documents may be produced without a deposition.**]**

IV. CR 45.03 (3) Service; Notice

The proposed amendments to section (3) of CR 45.03 are:

(3) Notice of e**[**E**]**very subpoena, except those issued for trial, shall be served**[**, in the manner prescribed by Rule 5.02,**]** on each party and any person whose information is being requested before the subpoena is served.

V. CR 52.01 When required; effect

The proposed amendments to CR 52.01 are:

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specifically and state separately its conclusions of law thereon and render an appropriate judgment; and in granting or refusing temporary injunctions or permanent injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review except as provided in Rule 52.04. Findings of fact, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a commissioner, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41.02.

C. FAMILY COURT RULES OF PROCEDURE AND PRACTICE (FCRPP)

I. FCRPP 1. Title and Scope.

The proposed amendment to section (2) of FCRPP 1 is:

(2) These Rules shall be applicable to the procedure and practice in all actions pertaining to dissolution of marriage; custody and child support; visitation and timesharing; property division; maintenance; domestic violence; paternity; dependency; neglect or abuse; termination of parental rights; adoption; and status offenses, or any other matter exclusively within family law jurisdiction, except for any special statutory proceedings, which shall prevail over any inconsistent procedures set forth in these Rules.

II. FCRPP 2. Preliminary Matters.

The proposed amendments to sections (1), (3), (5), (6) and new Commentary of FCRPP 2 are:

(1) Original Pleadings. All original pleadings, including forms, **[**and exhibits**]** in a dissolution action shall be signed by the preparer, filed with the clerk of the court, and if applicable, **[**as allowed by law. All original pleadings, motions, orders and exhibits**]** shall include, unless otherwise ordered by the court **[**but not be limited to,**]** the following**[**,if applicable**]**:

(a) A verified **[**signed copy of the**]** petition;
(b) Proof of service;
(c) A verified response, or a verified **[**signed copy of the**]** entry of appearance in lieu of a response **[**signed by the respondent**]**;
(d) Unless waived by the court pursuant to KRS 403.180(4)(b), a verified **[**A signed copy of the**]** separation agreement **[**subject to KRS 403.180(4)(b)**]**;
(e) The **[**f**]** Final **[**v**]**Verified **[**mandatory case d**]**Disclosure Statement;
(f) A verified waiver of notice of final hearing **[**and further proceedings**]**;
(g) A verified **[**notarized**]**deposition or interrogatories for proof of the allegations of the petition if done without a hearing;
(h) A **[**copy of a**]** divorce education certificate; and
(i) A **[**copy of a**]** child support work sheet**[**;**]**.
[(j) A proposed Findings of Fact, Conclusions of Law and Decree of Dissolution of Marriage.**]**

(3) Preliminary Mandatory Disclosure. The AOC-238, Preliminary Verified Disclosure Statement, shall be exchanged between the parties within 45 days of service **[**filing**]** of the petition on the respondent, and objections thereto shall be exchanged 20 days thereafter but the disclosures **[**and**]**shall not be filed in the record unless ordered by the court or required by local rule.

(5) Status Quo Orders. Without limiting a party's relief under CR 65, upon notice and opportunity to be heard, a court may enter a status quo order regarding disposition of the marital estate. Any such order may be entered on the AOC-237. A status quo order may include but not be limited to the following **[**At the initial court appearance, the court may enter a standing order on AOC-237, Status Quo Order, which may include the following**]**:

(a) Neither party shall, except as necessary to pay reasonable living expenses, incur unreasonable debt, sell, encumber, gift, bequeath or in any manner transfer, convey or dissipate any property, cash, stocks or other assets currently in their possession or in the control of another person, company, legal entity or family member without permission of the court or an agreed order signed by both parties or their attorneys.

(b) Neither party shall allow the cancellation or lapse of any health, life, automobile, casualty or disability insurance currently covering themselves or a family member or change the named beneficiaries on such policies prior to receiving permission of the court or filing an agreed order signed by both parties or their attorneys.

(6) Case Management[Conference].

(a) Mediation.

[a**]**(1) The parties may agree to mediate at any time. After notice and opportunity to be heard and unless prohibited by KRS 403.036 (domestic violence), **[**the initial court appearance and entry of any status quo or pendente lite order, or by agreement at any time,**]** the parties may be ordered to mediate any issues before further proceedings.

[b**]**(2) Within 10 days of a final mediation, **[**I**]**if the parties have been unable to resolve all issues, the petitioner shall file a motion **[**in mediation, they shall within 10 days obtain from the court a date**]** for a case management conference or final hearing date, unless previously scheduled by the court.

(b) Case Management Conference.

[c**]**(1) Unless notice is given to the court that a case is being mediated, **[**If the case is not mediated or mediation is delayed for good cause shown, or mediation cannot be required due to domestic violence, the conference shall be scheduled**]** within 60 days of **[**following**]** service of the petition upon the respondent, the petitioner shall file a motion for a case management conference.

[d**]**(2) Both parties and their counsel shall attend the conference, unless otherwise ordered by the court.

[e**]**(3) Each party shall file the following documents at least 7 **[**seven**]** days prior to the conference:

(i) Any related motions; and
(ii) Any stipulations or agreements reached.

[f**]**(4) In the event of failure of a party or parties to appear at the conference, the court may, in accordance with its order, conduct a hearing in which proof may be taken or the case dismissed, as the court may determine appropriate.

III. FCRPP 3. Obtaining a Decree of Dissolution.

The proposed amendments to sections (1), (2), (3), (5) and (6) of FCRPP 3 are:

(1) Matters Not Requiring a Trial[Hearing].

(a) If the parties reach an agreement on all issues, a decree of dissolution may be obtained without a trial **[**hearing**]** by filing a motion or agreed order to submit for decree of dissolution of marriage, and the parties shall further comply with any local rule requiring additional filings.

[(i) The motion shall contain the following information and attachments:

(A) The date of marriage and separation;
(B) The date the petition for dissolution was filed;
(C) The date the respondent was served or filed an entry of appearance;
(D) The dates the verified disclosures were filed unless otherwise waived by the court;
(E) If the parties have minor children of the marriage, and if ordered by the court, copies of certificates of completion of divorce education/parenting class by each party;
(F) A copy of the separation agreement, if any;
(G) A written deposition executed under oath by either party setting forth testimony required at a hearing;
(H) A written waiver of the right to a hearing executed by both parties;
(I) An affidavit stating that the parties have lived apart for sixty (60) days, and that no material change in circumstances has occurred since the taking of the proof;
(J) A request for name restoration, if any, in writing;
(ii) Original copies of (A) through (J) above shall be filed with the clerk in the county of origin, and a courtesy copy shall be submitted to the judge at his or her primary office if it is not located in the court facility where the case filed is located; and,
iii**]**(b) A decree shall not be final until the original is signed by the court and entered by the clerk.

[(b)**]**(c) If the parties reach an agreement on individual issues short of settling the entire case, the agreement, signed by both parties, may be submitted **[**directly**]** to the court for approval and entry.

(2) Default cases.

In all cases of default, the motion to submit for decree shall state the following:

(a) That no answer or pleadings have been received by the moving party or counsel;

(b) That the respondent was personally served and 20 days have elapsed since service, or that a warning order attorney was appointed, has filed a report and affidavit and that 50 days have elapsed since appointment of the warning order attorney; **[**all applicable requirements in paragraph (1)(a)(i) above, shall apply with the addition of an affidavit with the attorney's certificate that no answer or pleadings have been received by counsel,**]** and,

(c) Shall include certification that the motion and notice of trial **[**hearing**]** or submission has been served on the opposing party at the party's last known address; and if the party is on active military duty, that the provisions of the Servicemembers' Civil Relief Act have been followed.

(3) Matters Requiring a Trial [Hearing].

(a) If the parties do not reach an agreement on any or all issues, a trial **[**hearing**]** shall be held, on motion, as set by the court.

(b) No later than 5**[**10**]** days prior to the trial **[**hearing**]**, the parties shall file an AOC-239, Final Verified Disclosure Statement, in the record if property matters are in dispute at that trial; or the parties may file an affidavit that there are no changes in circumstance since the completion of the AOC-238, Preliminary Verified Disclosure Statement, if filed **[**hearing**]**.

(c) A copy of AOC-239, Final Verified Disclosure Statement, or the affidavit in (b) above, together with any supporting documentation, shall be provided to the opposing party 15 days prior to trial unless otherwise ordered by the court**[**'s attorney or the pro se party within 30 days of the filing of the motion for hearing, unless the hearing date is set within 30 days of filing the motion for the hearing, upon which disclosure shall be at the order of the court**]**.

[(5) **Court Ordered Family Counseling or Education.** In all proceedings for the dissolution of marriage in which children of the marriage are minors, or in any custody proceeding, the court may order the parents or

custodians and children to participate in counseling or divorce education, which shall be at the expense of the parties.

(6)]<u>(5)</u> Post-Decree Litigation.

A fee of $50.00 shall be paid by the movant in domestic relations cases reopened after six months from the entry of the decree for the purpose of modifying the decree. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant <u>files a motion to proceed</u> **[**is proceeding**]** *in forma pauperis*.

<u>(a) Reopening for purposes of this rule means any motion for modification of an order filed more than 6 months after entry of the order. A case is considered reopened until all matters in the motion are resolved.</u>

<u>(b) Once a case is reopened and the fee is paid, another fee will not be required unless 6 months or more have elapsed since entry of the order on the motion that re-opened the case.</u>

<u>(c) This fee shall not be required for motions to enforce an order and which are so titled.</u>

IV. FCRPP 4. Procedures Before the Domestic Relations Commissioner.

The proposed amendments to sections (1), (3) and (4) of FCRPP 4 are:

(1) In jurisdictions having no family court, the circuit judge may appoint a domestic relations commissioner, who shall serve at the pleasure of the court. The court may refer domestic relations matters under KRS Chapter 403 to the domestic relations commissioner, except for domestic violence proceedings, <u>contempt proceedings and injunctive relief proceedings</u>. Any local rules relating to domestic relations commissioners shall be approved by the Chief Justice and be uniform in all divisions of circuit court within each county of each circuit.

(3) The domestic relations commissioner shall hear all matters <u>and file a report</u> promptly <u>pursuant to KRS 454.350(2)</u>. Testimony may be heard orally before the commissioner or by deposition or interrogatory. All actions involving indigents shall be heard by the commissioner without fee. Proceedings before the commissioner shall be recorded by audio or video and a recording log shall be kept. The domestic relations commissioner shall file the recorded hearings and the recording log in the record with the clerk of the court. <u>Transcriptions shall not be required for any purpose within this Rule.</u>

(4) The domestic relations commissioner shall have the authority to make recommendations to the judge regarding motions for temporary orders of

custody, support and maintenance. All temporary and final decrees and orders shall be entered by the court upon review of the recommendations of the domestic relations commissioner as set forth below:**[**.**]**

(a) Within 10 days after being served with a copy of the commissioner's recommendations, any party may file written objections thereto with the court. After hearing the court may adopt the recommendations, modify them, or reject them in whole or in part, or may receive further evidence or may recommit them for further hearing.

(b) The circuit court shall sign any recommended temporary or post-decree order within 10 days after the time for filing exceptions has run. All temporary recommendations of the domestic relations commissioner which become orders of the court shall be without prejudice and subject to the court's de novo review on final hearing.

(c) If the parties stipulate that the commissioner's findings of fact shall be final, only questions of law arising upon the recommendations shall thereafter be considered.

(d) All final decrees shall be entered by the court within 20 days of submission if no exceptions have been filed. If exceptions have been filed, entry of the final decree shall occur within 10 days of disposition of the exceptions.

V. FRCPP 5. Maintenance.

The proposed amendments to sections (3) and (4) of FCRPP 5 are:

(3) Motions to Establish or Modify Permanent Maintenance

(a) All motions to establish or modify permanent maintenance shall be accompanied by the following:

(i) A statement from movant setting forth the amount of maintenance requested.

(ii) C**[**c**]**opies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income **[**and by**]**.

(iii) A**[**a**]**n affidavit setting forth movant's monthly expenses and income and the monthly income of the party against whom the motion is brought, if known.

(iv) The most recently filed federal and state income tax return.

(b) The respondent shall file the above financial information with the court and serve it on the opposing party 5 days prior to the hearing.

[b**]**(c) The notice of hearing accompanying a motion to establish or modify permanent maintenance shall contain the following statement: "You must file with the court, at least 24 hours prior to the time of the hearing, copies of your last three pay stubs, or if self-employed, proof of your current income and by an affidavit setting forth your monthly expenses and income, and the most current federal and state tax returns."

[(4) All post decree matters regarding the maintenance issues shall be submitted with a statement of monthly living expenses, supporting documentation of all year to date gross income from all sources, and the most recently filed federal and state income tax returns. The responding party is to similarly file this financial information. All parties shall exchange said information 10 days prior to the hearing. In addition, counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.**]**

VI. FCRPP 6. General Provisions.

The proposed amendments to sections (1), (2), (3) and new section (4) of FCRPP 6 are:

(1) [If**]**The provisions of this section shall apply to all actions in which there are disputes regarding custody, shared parenting, visitation or support **[**are properly before the court,**]**.

(2) [a**]**A parent or custodian may move for, or the court may order, one or more of the following, which may be apportioned at the expense of the parents or custodians:

(a) A custody evaluation;

(b) Psychological evaluation(s) of a parent or parents or custodians, or child(ren);

(c) Family counseling;

(d) Mediation;

(e) Appointment of a guardian *ad litem*;

(f) Appointment of such other professional(s) for opinions or advice which the court deems appropriate; or,

(g) Such other action deemed appropriate by the court.

[2**](3)** The court or domestic relations commissioner shall conduct a hearing on any motion for temporary custody, time sharing, visitation or child support, within

[thirty (30)**]** 60 days of the filing of the motion except for good cause stated on the record. Nothing herein prevents the parties from entering into an agreement on these issues.

(4) In all proceedings for the dissolution of marriage in which children of the marriage are minors, or in any custody proceedings, the court may order the parents or custodians and children to participate in counseling or divorce education on a case-by-case basis, which shall be at the expense of the parties.

VII. FCRPP 7. Custody.

The proposed amendments to sections (1), (2) and new Commentary of FCRPP 7 are:

(1) Unless otherwise ordered by the court, **[**I**]**in any action in which the permanent custody or time-sharing of the child(ren) is in issue, each party **[**parent**]** shall, not less than 14 days prior to the day set for hearing, provide the other party(ies) **[**parent**]** with a list of the names and addresses of every person and a short statement of the subject of their testimony, other than a parent or the child(ren) of the parents, expected to be called as a witness, as well as a list of exhibits to be entered.

(2) Relocation [Residency within Kentucky/Moving to Another Location] .

Before a joint custodian relocates, written notice shall be filed with the court and notice shall be served on the non-relocating joint custodian. Either party may file a motion for change of custody or time-sharing within 20 days of service of the notice if the custodians are not in agreement; or, the parties shall file an agreed order if the time sharing arrangement is modified by agreement. See Pennington v. Marcum, 266 S.W.3d 759 (Ky. 2008) and Wilson v. Messinger, 840 S.W.2d 203 (Ky.1992).

[(a) If either parent intends to move with the child(ren) from the Commonwealth of Kentucky to another state, or more than 100 miles from the present residence of the child(ren), he or she shall give notice to the other parent at least sixty (60) days prior to such move. Either parent may file a motion for change of custody or time sharing if the other parent is not in agreement with the move, or an agreed order if they are in agreement. No relocation of the children shall occur unless the court enters an order modifying the status quo.

(b) If a parent moves from the county where the initial decree or custody order is entered, the court shall apportion the cost of transportation of the child(ren) between the parents, or may assign the entirety of the costs to one parent, considering the economic circumstances of each parent and any other relevant factors.**]**

Supreme Court Standing Committee on the FCRPP (2012) Commentary

Pursuant to KRS 403.770, if the relocating custodian has an active Emergency Protective Order or Domestic Violence Order against the other parent or custodian, the relocating custodian must not be required to disclose to the other party the relocation destination. The court and clerks will strictly comply with the statutory mandates set forth in KRS 403.770. If the domestic violence action is not pending in the same circuit, the court may require the relocating custodian to disclose the relocation destination provided only if the location is filed under seal, with strict confidentiality maintained by the court and clerk, and the location is not disclosed to the opposing party.

VIII. FCRPP 8. Time-Sharing/Visitation.

The proposed amendments to sections (1) and (2) of FCRPP 8 are:

(1) A parent shall be entitled to time-sharing/visitation as ordered by the court, which may be in accordance with the Model Time-Sharing/Visitation Guidelines **[**AOC-P-106**]**, unless otherwise agreed to by the parties or ordered by the court.

(2) Model Time-Sharing/Visitation Guidelines are set forth in **[**AOC-P-106, in**]** Appendix A to these Rules or other guidelines may be applied and set forth in local rules.

IX. FCRPP 9. Support.

The proposed amendments to sections (2), (3), (4), (5) and (6) of FCRPP 9 are:

(2) An order directing the payment of child support shall be entered utilizing the **[**on form**]** AOC-152, Uniform Child Support Order and/or Wage/**[**Benefit**]**Income Withholding Order **[**for Kentucky Employers,**]** which is the form prescribed by the Administrative Office of the Courts pursuant to KRS 205.713 and KRS 205.802. This form shall be located on the Court of Justice website and shall include the following:

(a) The amount and frequency of the support payments;

(b) That the payment shall be paid**[**:**]**

(i) **[**b**]**By wage/income withholding, to begin immediately;**[**, on form AOC-152, Uniform Child Support Order and/or Wage/Benefit Withholding Order for Kentucky Employers, if applicable;**]** or,

(ii) **[**i**]**If wage/income withholding is not ordered to begin immediately for good cause shown **[**applicable**]**, as ordered by the court and as directed in KRS 403.215; or,

(iii) According to a written agreement reached between both parties which provides for an alternative arrangement to wage/income withholding.

(c) In non-IV-D cases the federal Income Witholding for Support (IW0) form OMB 0970-0154, and in IV-D cases the state CS-89, shall be utilized to notify the employer/income withholder of any wage/income withholding ordered by the court.

[(c**]**(d) The party responsible for medical and other ordered expenses of the child(ren); and,

[(d**]**e) The social security numbers of the parties and child(ren), CR 7.03 notwithstanding.

(3) Notice of any **[**If child support is paid by**]**wage/income withholding**[**, a copy of the wage withholding order**]** shall be served upon the employer and the employee as follows:

(a) In non-IV-D cases, the OMB 0970-0154 shall be accompanied by the underlying AOC-152.

(b) In IV-D cases, the CS-89 shall be utilized.

(4) Motions to Establish or Modify Child Support.

(a) A motion to establish or modify child **[**for temporary**]** support shall be accompanied by the following:

(1) **[**a**]**A completed child support guidelines worksheet.

(2) **[**and by c**]**Copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income.

(3) The most recently filed federal and state income tax returns.

(4) Verification of the cost of health insurance for the child(ren) only.

(5) A **[**The**]** notice of hearing accompanying a motion for **[**temporary**]** child support which shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self-employed, proof of your current income and the most current federal and state tax returns."

(b) The responding party is to similarly file this financial information at least 24 hours prior to the hearing.

(c) All parties shall exchange said information 10 days prior to the hearing.

(d) In addition, counsel shall certify, prior to the hearing being held, that reasonable efforts were made to resolve all the issues in dispute.

[(5) Motions to Modify Support.

(a) All motions to modify support shall set forth the current child support and shall be accompanied by a completed child support guidelines worksheet and by copies of the movant's last three pay stubs or, if movant is self employed, proof of the movant's current income.

(b) The notice of hearing accompanying a motion to modify child support shall contain the following statement: "You must file with the court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self employed, proof of your current income.

(6) All post-decree matters regarding modification of child support shall be submitted with a child support worksheet, documentation of all year to date gross income from all sources, the most recently filed federal and state income tax returns, verification of the cost of health insurance for the child(ren) only, and verification of child care expenses. The responding party is to similarly file financial information. All parties shall exchange said information 10 days prior to the hearing. In addition counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.**]**

X. FCRPP 14. Paternity Reopenings.

The proposed amendments to sections (1), (2) and (3) of FCRPP 14 are:

(1) A fee of $50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant files a motion to **[**is**]** proceed**[**ing**]** in forma pauperis.

(a) Reopening for purposes of this rule means any motion for modification of an order filed more than 6 months after entry of the order. A case is considered reopened until all matters in the motion are resolved.

(b) Once a case is reopened and the fee is paid, another fee will not be required unless 6 months or more have elapsed since entry of the order on the motion that reopened the case.

(c) This fee shall not be required for motions to enforce an order and which are so titled.

(2) Nothing in this Rule **[**14(1) above**]** shall preclude the district court from declining jurisdiction on custody**[**,**]** and visitation **[**or support**]** and referring the action to the circuit court pursuant to KRS 406.051(2); nor shall this Rule **[**14(1)**]** preclude an action for custody, visitation or support from being filed in the circuit court by a party after the entry of a judgment of paternity in district court. In either event the appropriate filing fee shall be paid by the moving party, unless the movant/petitioner files a motion to **[**is**]**proceed**[**ing**]** in forma pauperis.

(3) In family court jurisdictions nothing in this Rule **[**14(1) above**]** shall preclude the family court judge from ordering **[**transferring**]** the custody, visitation and support matters in a paternity action be initiated in a circuit action. **[**to the custody, visitation and support docket.**]** In such instance, a new circuit civil petition shall be filed by the movant/petitioner and the appropriate filing fee shall be paid unless *in forma pauperis* status is granted by the court. **[**Such a transfer shall require the court to order that the appropriate filing fee be paid by the moving party, unless the movant is proceeding in forma pauperis.**]**

XI. FCRPP 15. Genetic Testing.

The proposed amendments to FCRPP 15 are:

When **[**In a**]**paternity is an issue in any action, the court may order the mother, child and the putative father to submit to genetic tests as follows:

(1) In a case in which paternity is denied or in which the parties request genetic testing, on motion made by any party, a pretrial order shall be entered by the court forthwith which requires both parties and the child to submit to genetic tests in accordance with KRS 406.081 or 406.091 unless an agreed order is entered.

(2) Within 30 days of receipt of the genetic report, the petitioner shall file the original report with the court in support of a motion to dismiss, a motion for trial or a motion for summary judgment. This does not preclude prehearing conferencing in the interim which may extend the 30 days by agreement or resolve the issues.

(3) In those cases in which the genetic test report excludes the defendant from the paternity of the child, the court, after the expiration of 30 days from the date of the filing of the exclusionary report, shall enter an order of dismissal in

favor of the defendant unless a motion for additional testing pursuant to KRS 406.091 is filed prior to the expiration of the 30 days.

XII. FCRPP 17. [Judicial]Notice in Dependency, Neglect or Abuse Actions.

The proposed amendments to section (1) and new section (2) of FCRPP 17 are:

(1) Judicial Notice. In making any determinations with regard to a child in a dependency or neglect or abuse action, the court may consider the findings of fact and court orders from any other court proceeding in any other court file involving the child or the child's parents or the person exercising custodial control or supervision, if the court is aware of such proceedings. To the extent that the court relies on such, the court shall include a copy of that material in the record.

(2) Notice and Opportunity to be Heard. Prior to any review or permanency hearing, the state child welfare agency shall inform the court of the name and address of the foster parents, pre-adoptive parents and any relatives who are providing care for the child. The clerk shall provide notice of any review or permanency hearing to all parties and to the child's foster parents, pre-adoptive parents, and any relatives who are providing care for the child. The foster parents, pre-adoptive parents or any relative who is providing care for the child shall have an opportunity to be heard and may be subject to cross examination but shall not be designated as a party to such a proceeding solely on the basis of such notice and right to be heard.

XIII. FCRPP 18. Service.

The proposed new Commentary of FCRPP 18 is:

Supreme Court Standing Committee on the FCRPP (2012) Commentary

If a permanent custody motion is filed within a Dependency, Neglect and Abuse (DNA) action pursuant to KRS 620.027, the movant shall ensure that personal service of the permanent custody motion has been perfected upon both parents and any other legal custodian, except as otherwise directed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Personal service shall be perfected in accordance with the Kentucky Rules of Civil Procedure, CR 4, et. seq. If said service has not been properly perfected in the DNA action, the court should deny the motion and require the movant to file a proper petition for child custody pursuant to KRS Chapter 403.

XIV. FCRPP 22. Orders from Hearings.

The proposed new section (5) and new Commentary of FCRPP 22 is:

(5) Verbal Approval or Stamped Signatures. No order in a dependency, neglect and abuse action may be entered on verbal approval or stamped signature.

Supreme Court Standing Committee on the FCRPP (2012) Commentary

Faxed or scanned original signatures and encrypted or otherwise secure digital signatures authorized by the Supreme Court have been deemed to be acceptable methods of signature for purposes of these Rules.

XV. FCRPP 23. Continuances.

The proposed amendments to section (1), new section (2) and new Commentary of FCRPP 23 are:

(1) If the court grants an extension of time or a continuance for any hearing other than the annual permanency hearing, it shall make written or oral findings on the record that the continuance is necessary in the best interest of the child, for **[**accumulation**]** discovery or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause shown.

(2) The annual permanency review hearing shall be conducted at least annually and shall not be continued beyond 12 months from the placement of the child in foster care for any reason, including good cause.

Supreme Court Standing Committee on the FCRPP (2012) Commentary

Pursuant to 45 C.F.R. 1356.21(b)(2)(i), the state child welfare agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within 12 months of the date the child is considered to have entered foster care and at least every 12 months thereafter while the child is in foster care. Under 45 C.F.R. 1356.21(b)(2)(ii), if such a judicial determination is not made, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

XVI. FCRPP 26. Appearances.

The proposed amendment to FCRPP 26 is:

Any attorney appearing on behalf of a party in a dependency, neglect or abuse action shall file a written entry of appearance unless an order appointing the attorney as guardian *ad litem* or court-appointed counsel has been entered. An attorney shall not withdraw from representation except upon motion to withdraw granted by the court.

XVII. FCRPP 27. Records and Transcripts.

The proposed amendment to section (1) of FCRPP 27 are:

(1) An electronic or stenographic record of interviews with children, including a recording of any in-camera **[**chambers**]**proceedings, shall be filed under seal with the clerk and may be made available to the parties or their counsel on motion and written order of the court.

XVIII. FCRPP 29. Case Plan and Case Progress Reports.

The proposed new section (4) of FCRPP 29 is:

(4) The state child welfare agency shall provide the names and addresses of the child's foster parents, pre-adoptive parents or relatives providing care to the child, court appointed special advocate, and foster care review board member assigned to the case with the case permanency plan or case progress report filed with the court on a form prescribed by the Administrative Office of the Courts.

XIX. FCRPP 30. [Permanent Placement]Reviews.

The proposed amendment to section (1), new section (2) and new Commentary of FCRPP 30 are:

(1) Permanent Placement Review. In addition to the annual permanency hearing mandated by KRS 610.125, the court shall conduct a permanency progress review no later than six months after a child is placed in foster care, in the home of a non-custodial parent, or other person or agency, when that child was sixteen years of age or younger at the time of the filing of a dependency, neglect or abuse petition.

(2) Independent Living Review. In addition to the permanent placement review and the annual permanency hearing, and when the child remains in foster care or committed to the state child welfare agency, the court shall conduct an independent living review at least 6 months prior to the child turning 18 years of age to ensure that training on independent living and other appropriate services have been included in the case plan and are being provided to the child.

Supreme Court Standing Committee on the FCRPP (2012) Commentary

With respect to FCRPP 30(1), if a permanent custody motion is filed within a Dependency, Neglect or Abuse (DNA) action pursuant to KRS 620.027, the movant shall ensure that personal service (of the DNA action) has been perfected upon both parents and any other legal custodian, except as otherwise directed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Personal service shall be perfected in accordance with the Kentucky Rules of Civil

Procedure, CR 4, et. seq. If said service has not been properly perfected in the DNA action, the court should deny the motion and require the movant to file a proper petition for child custody pursuant to KRS Chapter 403.

XX. FCRPP 32. Venue and Petition.

The proposed amendments to sub-section (a) of section (2) for FCRPP 32 is:

(2) Petition.

(a) A separate petition shall be filed for each child and individual case numbers shall be assigned by the clerk of the court in proceedings filed pursuant to KRS Chapters 199 and 625, and in the case of siblings, shall be heard by the same judge.

XXI. FCRPP 33. Adoption.

The proposed amendments to sections (2) and (3) of FCRPP 33 are:

(2) In the event of an uncontested adoption, a hearing shall be held within **[**3**]**60 days of the filing of a request for a final hearing.

(3) A continuance of any final hearing date shall not be granted except upon good cause shown. Annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until finalization of the adoption.

XXII. FCRPP 34. Involuntary Termination.

The proposed amendment to section (2) of FCRPP 34 is:

(2) A continuance of any final hearing date shall not be granted except upon good cause shown. The annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until permanency is achieved.

XXIII. FCRPP 36. Post-Termination of Parental Rights Review.

The proposed amendments to FCRPP 36 are:

If an order terminating parental rights is entered, a copy of the order shall also be certified to the record in the underlying dependency, neglect and abuse case which shall be identified in the order. The clerk of the court in the underlying dependency, neglect and abuse case shall docket the matter for **[**there shall be**]** a review hearing within **[**conducted**]**90 days from the date of the

entry of the order of termination of parental rights and shall docket the matter as directed by the court at least annually thereafter until permanency is achieved **[**for the purpose of reviewing progress toward finalization of placement or adoption for the child**]**.

XXIV. FCRPP 37. Review.

The proposed amendments to FCRPP 37 are:

At any time during a status offense action, the court on its own motion, or on motion of any interested person, may determine that **[**whether**]** a status matter is more appropriate as a KRS Chapter 620 proceeding and direct the state child welfare agency to investigate and/or provide services to the child and/or family; **[**A referral may be made to the state child protective service agency, or upon motion, the court may**]** amend the petition pursuant to KRS 610.010(13) and order it served;**[**,**]** or, require a new petition to **[**may**]** be filed. See also KRS 605.130(3).

XXV. FCRPP 39. Diversion.

The proposed amendments to FCRPP 39 are:

Prior to the court issuing an order for a formal hearing or the county attorney requesting a formal hearing, the case shall be processed by **[**Pursuant to KRS 610.030, if**]** the court designated worker pursuant to KRS 610.030. **[**determines that a status offense complaint meets the criteria for diversion and a diversion agreement is reached, a petition shall not be filed. Upon review of the diversion agreement, the court on its own motion, or upon written request to the court by the county attorney, may refer the complaint for formal hearing**]**